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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/840,742	04/23/2001	Don Witmer	9204-13	4825

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Wagner Murabito & Hao LLP  
Two North Market Street  
Third Floor  
San Jose, CA 95113

EXAMINER
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GUILL, RUSSELL L

ART UNIT	PAPER NUMBER
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2123

DATE MAILED: 03/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/840,742

Applicant(s)

WITMER ET AL.

Examiner

Russell L. Guill

Art Unit

2123

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 April 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☐ Claim(s) \_\_\_\_\_ is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 - 16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12/11/2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

1. Claims 1 – 16 have been examined. Claims 1 – 16 have been rejected.

#### ***Claim Rejections - 35 USC § 101***

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 1 – 16 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The language of the claims raise a question as to whether the claims are directed merely to an abstract idea that is not tied to a technological art, environment or machine which would result in a practical application producing a concrete useful and tangible result to form the basis of statutory subject matter under 35 U.S.C. 101. The steps performed can all be performed either as a mental step or using pencil and paper, and further will not provide an assured result, especially claims 1 and 11, where one step is “allowing the user to select home networking system options from the workbook”. No steps require hardware to produce a result. The claims do not produce a concrete and tangible result.

***Claim Rejections - 35 USC § 103***

- 4.** The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

- 5.** Claims 1 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Neibauer (Neibauer, Alan R.; "This Wired Home: The Microsoft Guide to Home Networking", 1999, Microsoft Press) in view of Plaskoff (Plaskoff et al., U.S. Patent Application Publication US 2001/0032062 A1).

**5.1.** The art of Neibauer is directed to home networking.

**5.2.** Neibauer teaches obtaining information from floor plans for the home (pages 86 – 88, section Locating the Hub, and drawing on page 87).

**5.3.** Neibauer further teaches designing a home networking infrastructure for the home using information obtained from the floor plans (pages 86 – 88, section Locating the Hub, and drawing on page 87).

- 5.4.** Neibauer does not teach producing a work book that comprises a description of various home networking system options that are supported by the home networking infrastructure.
- 5.5.** Neibauer further does not teach allowing a user to select home networking system options from the work book to produce a custom home networking system for the home.
- 5.6.** The art of Plaskoff is directed to a method and system for designing, specifying, purchasing and constructing a renovation project online.
- 5.7.** Plaskoff teaches producing a work book that comprises a description of various options (figures 5, 6, and 8, and page 8, paragraphs [0090], [0091], and [0093]).
- 5.8.** Plaskoff teaches allowing a user to select options from a work book (figures 5, 6, and 8, and page 8, paragraphs [0090], [0091], and [0093]).
- 5.9.** Neibauer and Plaskoff are analogous art because they are both directed to the problem of home renovation projects.
- 5.10.** The motivation for combining the art of Plaskoff with the art of Neibauer would have been obvious from the nature of the

problem, in view of the sales and presentation benefit of displaying configuration options to a customer.

**5.11.** Therefore, as discussed above, it would have been obvious to the ordinary artisan at the time of invention to use the art of Plaskoff with the art of Neibauer for the benefit of obtaining the invention specified in claims 1 and 11.

**6.** Claims 2 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Neibauer (Neibauer, Alan R.; “This Wired Home: The Microsoft Guide to Home Networking”, 1999, Microsoft Press) and Plaskoff (Plaskoff et al., U.S. Patent Application Publication US 2001/0032062 A1).

**6.1.** Claim 2 is a dependent claim of claim 1, and thereby inherits all of the rejected limitations of claim 1.

**6.2.** Claim 12 is a dependent claim of claim 11, and thereby inherits all of the rejected limitations of claim 11.

**6.3.** Neibauer teaches obtaining objective and subjective information about a home (pages 86 – 88, section Locating the Hub, and drawing on page 87).

**7.** Claims 3 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Neibauer (Neibauer, Alan R.; “This Wired Home:

The Microsoft Guide to Home Networking”, 1999, Microsoft Press) and Plaskoff (Plaskoff et al., U.S. Patent Application Publication US 2001/0032062 A1).

**7.1.** Claim 3 is a dependent claim of claim 1, and thereby inherits all of the rejected limitations of claim 1.

**7.2.** Claim 13 is a dependent claim of claim 11, and thereby inherits all of the rejected limitations of claim 11.

**7.3.** Neibauer teaches a low voltage wiring diagram (page 87, unlabelled figure).

**8.** Claims 4 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Neibauer (Neibauer, Alan R.; “This Wired Home: The Microsoft Guide to Home Networking”, 1999, Microsoft Press) and Plaskoff (Plaskoff et al., U.S. Patent Application Publication US 2001/0032062 A1).

**8.1.** Claim 4 is a dependent claim of claim 3, and thereby inherits all of the rejected limitations of claim 3.

**8.2.** Claim 14 is a dependent claim of claim 13, and thereby inherits all of the rejected limitations of claim 13.

**8.3.** Neibauer does not teach a price list.

**8.4.** Plaskoff teaches a price list (figure 12, and page 9, paragraph [0101]).

**9.** Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Neibauer (Neibauer, Alan R.; "This Wired Home: The Microsoft Guide to Home Networking", 1999, Microsoft Press) and Plaskoff (Plaskoff et al., U.S. Patent Application Publication US 2001/0032062 A1) in view of Elliot (U.S. Patent 6,446,053).

**9.1.** Claim 5 is a dependent claim of claim 1, and thereby inherits all of the rejected limitations of claim 1.

**9.2.** Neibauer does not teach providing a builder with cost information associated with installing a custom home networking system.

**9.3.** The art of Elliot is directed to producing a proposal for a construction project (Title of patent).

**9.4.** Elliot teaches providing a builder with cost information (column 3, lines 35 – 50).

**9.5.** Elliot is analogous art to Neibauer and Plaskoff because they both contain the problem of preparing a cost estimate for a builder. Further, Elliot contains the problem of installing home network cable (column 7, table 1, phase 13, steps 2 and 3).



**9.6.** The motivation for combining the art of Elliot with the art of Neibauer and Plaskoff would have been obvious in view of the need to provide cost information to a builder. The ordinary artisan at the time of invention would have been motivated to search the prior art for the benefit of utilizing prior inventions.

**9.7.** Therefore, as discussed above, it would have been obvious to the ordinary artisan at the time of invention to use the art of Elliot with the art of Neibauer and Plaskoff for the benefit of obtaining the invention specified in claim 5.

**10.** Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Neibauer (Neibauer, Alan R.; "This Wired Home: The Microsoft Guide to Home Networking", 1999, Microsoft Press) and Plaskoff (Plaskoff et al., U.S. Patent Application Publication US 2001/0032062 A1) in view of Elliot (U.S. Patent 6,446,053).

**10.1.** Claim 6 is a dependent claim of claim 1, and thereby inherits all of the rejected limitations of claim 1.

**10.2.** Neibauer and Plaskoff does not teach that providing a builder with cost information comprises providing a builder with a bill of materials and a price list for the custom home networking system.

**10.3.** The art of Elliot is directed to producing a proposal for a construction project (Title of patent).

**10.4.** Elliot teaches providing a builder with a price list (column 3, lines 35 – 50).

**10.4.1.** Regarding (column 3, lines 35 – 50); a cost estimate is the same as a price list.

**10.5.** Plaskoff teaches providing a bill of materials (page 7, paragraph [0082], and page 9, paragraph [0103]).

**10.6.** Elliot is analogous art to Neibauer and Plaskoff because they both contain the problem of preparing a cost estimate for a builder. Further, Elliot contains the problem of installing home network cable (column 7, table 1, phase 13, steps 2 and 3).

**10.7.** The motivation for combining the art of Elliot with the art of Neibauer and Plaskoff would have been obvious in view of the need to provide cost information to a builder. The ordinary artisan at the time of invention would have been motivated to search the prior art for the benefit of utilizing prior inventions.

**10.8.** Therefore, as discussed above, it would have been obvious to the ordinary artisan at the time of invention to use the art of Elliot

with the art of Neibauer and Plaskoff for the benefit of obtaining the invention specified in claim 6.

**11.** Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Neibauer (Neibauer, Alan R.; "This Wired Home: The Microsoft Guide to Home Networking", 1999, Microsoft Press) and Plaskoff (Plaskoff et al., U.S. Patent Application Publication US 2001/0032062 A1) in view of Elliot (U.S. Patent 6,446,053).

**11.1.** Claim 7 is a dependent claim of claim 1, and thereby inherits all of the rejected limitations of claim 1.

**11.2.** Neibauer and Plaskoff do not teach integrating a schedule for installing the custom home networking system into the builder's construction schedule for the home.

**11.3.** The art of Elliot is directed to producing a proposal for a construction project (Title of patent).

**11.4.** Elliot teaches integrating a schedule for contractors into a builder's construction schedule for a home (figure 6, and column 10, lines 25 – 40).

**11.5.** Elliot is analogous art to Neibauer and Plaskoff because they both contain the problem of preparing a construction schedule.

Further, Elliot contains the problem of installing home network cable (column 7, table 1, phase 13, steps 2 and 3).

**11.6.** The motivation for combining the art of Elliot with the art of Neibauer and Plaskoff would have been obvious in view of the need to provide schedule information to a builder. The ordinary artisan at the time of invention would have been motivated to search the prior art for the benefit of utilizing prior inventions.

**11.7.** Therefore, as discussed above, it would have been obvious to the ordinary artisan at the time of invention to use the art of Elliot with the art of Neibauer and Plaskoff for the benefit of obtaining the invention specified in claim 7.

**12.** Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Neibauer (Neibauer, Alan R.; "This Wired Home: The Microsoft Guide to Home Networking", 1999, Microsoft Press) and Plaskoff (Plaskoff et al., U.S. Patent Application Publication US 2001/0032062 A1) in view of USDOE (U.S. Department of Energy, Program and Project Management, October 2000).

**12.1.** Claim 8 is a dependent claim of claim 1, and thereby inherits all of the rejected limitations of claim 1.

**12.2.** Neibauer and Plaskoff do not teach monitoring installation of the custom home networking system for the home.

**12.3.** The art of USDOE is directed to project management (Title).

**12.4.** USDOE teaches monitoring a project (Chapter 15 Performance Management, especially section 15.4 Measuring for Results).

**12.5.** USDOE is analogous art to Neibauer and Plaskoff because they both contain the problem of managing a project.

**12.6.** The motivation for combining the art of USDOE with the art of Neibauer and Plaskoff would have been obvious in view of the need in a construction project to control schedule and cost. The ordinary artisan at the time of invention would have been motivated to search the prior art for the benefit of utilizing prior inventions.

**12.7.** Therefore, as discussed above, it would have been obvious to the ordinary artisan at the time of invention to use the art of USDOE with the art of Neibauer and Plaskoff for the benefit of obtaining the invention specified in claim 9.

**13.** Claims 9 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Neibauer (Neibauer, Alan R.; "This Wired Home: The Microsoft Guide to Home Networking", 1999, Microsoft Press) and

Plaskoff (Plaskoff et al., U.S. Patent Application Publication US 2001/0032062 A1) in view of USDOE (U.S. Department of Energy, Program and Project Management, October 2000).

**13.1.** Claim 9 is a dependent claim of claim 1, and thereby inherits all of the rejected limitations of claim 1.

**13.2.** Claim 15 is a dependent claim of claim 11, and thereby inherits all of the rejected limitations of claim 11.

**13.3.** Neibauer and Plaskoff do not teach facilitating the activation of components and/or services of the custom home networking system after installation thereof.

**13.4.** The art of USDOE is directed to project management (Title of document).

**13.5.** USDOE teaches facilitating the activation of components and/or services of a system after installation (section 18.1.2 Testing and section 18.2 Knowledge Transfer).

**13.6.** USDOE is analogous art to Neibauer and Plaskoff because they both contain the problem of managing and controlling a project.

**13.7.** The motivation for combining the art of USDOE with the art of Neibauer and Plaskoff would have been obvious in view of the need in a construction project to manage and control the project.

The ordinary artisan at the time of invention would have been motivated to search the prior art for the benefit of utilizing prior inventions.

**13.8.** Therefore, as discussed above, it would have been obvious to the ordinary artisan at the time of invention to use the art of USDOE with the art of Neibauer and Plaskoff for the benefit of obtaining the invention specified in claims 9 and 15.

**14.** Claims 10 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Neibauer (Neibauer, Alan R.; "This Wired Home: The Microsoft Guide to Home Networking", 1999, Microsoft Press) and Plaskoff (Plaskoff et al., U.S. Patent Application Publication US 2001/0032062 A1) in view of USDOE (U.S. Department of Energy, Program and Project Management, October 2000).

**14.1.** Claim 10 is a dependent claim of claim 1, and thereby inherits all of the rejected limitations of claim 1.

**14.2.** Claim 16 is a dependent claim of claim 11, and thereby inherits all of the rejected limitations of claim 11.

**14.3.** Neibauer and Plaskoff do not teach providing the user with an owner's manual for the custom home networking system that

provides operational information about the custom home networking system.

**14.4.** The art of USDOE is directed to project management (Title of document).

**14.5.** USDOE teaches providing the user with an owner's manual for a system that provides operational information about the system (Chapter 18 Transition and Turnover section 18.5 Other, and section 18.3 Documentation).

**14.6.** USDOE is analogous art to Neibauer and Plaskoff because they both contain the problem of managing and controlling a project.

**14.7.** The motivation for combining the art of USDOE with the art of Neibauer and Plaskoff would have been obvious in view of the need in a construction project to manage and control the project. The ordinary artisan at the time of invention would have been motivated to search the prior art for the benefit of utilizing prior inventions.

**14.8.** Therefore, as discussed above, it would have been obvious to the ordinary artisan at the time of invention to use the art of USDOE with the art of Neibauer and Plaskoff for the benefit of obtaining the invention specified in claims 10 and 16.



**Conclusion**

- 15.** Any inquiry concerning this communication or earlier communications from the examiner should be directed to Russell L. Guill whose telephone number is 571-272-7955. The examiner can normally be reached on Monday - Friday 9:00 AM – 5:30 PM.
- 16.** If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Teska can be reached on 571-272-3716. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.
- 17.** Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**SAMUEL BRODA, ESQ.  
PRIMARY EXAMINER**